

# Health & Human Services

## Final Agenda

### Louisville Metro Council

**Meeting Date:** 08/09/2006

**Meeting Time:** 3:00 PM

**Location:** Third Floor, City Hall

**Chairs:** Mary C. Woolridge (3)

**Members:** Barbara Shanklin (2)  
Mary C. Woolridge (3)  
David Tandy (4)  
Rick Blackwell (12)  
Glen Stuckel (17)  
Stuart Benson (20)  
Robin Engel (22)

#### Special Items for Discussion:

- 1 [R-101-7-06](#) A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A GRANT FROM ANTHEM BLUE CROSS AND BLUE SHIELD IN THE AMOUNT OF APPROXIMATELY \$30,000 FOR THE "HANDS TO HEART" CPR ANYTIME PROGRAM.  
[Sponsor\(s\)](#) [Health & Human Services](#)
- 2 [R-103-7-06](#) A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A STATE GRANT FROM THE GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT IN THE AMOUNT OF \$1,000,000.00 EFFECTIVE JANUARY 1, 2007 THROUGH THE DEPARTMENT OF FINANCE FOR THE CENTER FOR WOMEN AND FAMILIES.  
[Sponsor\(s\)](#) [Health & Human Services](#)
- 3 [R-104-7-06](#) A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A STATE GRANT FROM THE GOVERNOR'S OFFICE FOR LOCAL

DEVELOPMENT IN THE AMOUNT OF \$200,000.00 THROUGH THE DEPARTMENT OF FINANCE FOR THE FAMILY PLACE.

[Sponsor\(s\)](#)      [Health & Human Services](#)

- 4    [R-105-7-06](#)    A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A STATE GRANT FROM THE GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT IN THE AMOUNT OF \$220,000.00 THROUGH THE DEPARTMENT OF FINANCE FOR THE BOYS HAVEN MOMS MENTORING MOMS PROGRAM.

[Sponsor\(s\)](#)      [Health & Human Services](#)

- 5    [R-106-7-06](#)    A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A STATE GRANT FROM THE GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT IN THE AMOUNT OF \$950,000.00 EFFECTIVE JANUARY 1, 2007 THROUGH THE DEPARTMENT OF FINANCE FOR JEWISH HOSPITAL/ST. MARY FOR INFRASTRUCTURE.

[Sponsor\(s\)](#)      [Health & Human Services](#)

- 6    [O-121-6-06](#)    AN ORDINANCE RE-ENACTING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) CHAPTER 151, IN ITS ENTIRETY, RELATING TO THE LANDLORD AND TENANT CODE. (tabled)

[Sponsor\(s\)](#)      [Health & Human Services](#)

**RESOLUTION NO. \_\_\_\_\_, SERIES 2006**

**A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A GRANT FROM ANTHEM BLUE CROSS AND BLUE SHIELD IN THE AMOUNT OF APPROXIMATELY \$30,000 FOR THE “HANDS TO HEART” CPR ANYTIME PROGRAM.**

**Sponsored By: Councilwomen Woolridge and Flood**

**WHEREAS**, Anthem Blue Cross and Blue Shield has designated grant funds to Louisville Metro Emergency Medical Services (LMEMS) to implement the Hands to Heart community CPR training program, and;

**WHEREAS**, Louisville/Jefferson County Metro Government wishes to take advantage of this funding opportunity through its agency, Louisville Metro EMS.

**BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** The Mayor is hereby authorized to accept a grant from the Anthem Blue Cross and Blue Shield in the amount of approximately \$30,000, for the “Hands to Heart” community CPR training program.

**SECTION II:** This Resolution shall take effect upon its passage and approval.

\_\_\_\_\_  
Kathleen J. Herron  
Metro Council Clerk

\_\_\_\_\_  
Kevin J. Kramer  
President of the Council

\_\_\_\_\_  
Jerry E. Abramson  
Mayor

\_\_\_\_\_  
Approval Date

**APPROVED AS TO FORM AND LEGALITY**

Irv Maze  
Jefferson County Attorney

BY: \_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_, SERIES 2006**

**A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A STATE GRANT FROM THE GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT IN THE AMOUNT OF \$1,000,000.00 EFFECTIVE JANUARY 1, 2007 THROUGH THE DEPARTMENT OF FINANCE FOR THE CENTER FOR WOMEN AND FAMILIES.**

**Sponsored By: Councilwoman Mary Woolridge**

**WHEREAS**, the application for the Grant has been reviewed and approved by the Governor's Office for Local Development; and

**WHEREAS**, the Metro Government wishes to take advantage of this funding opportunity through the Finance Department.

**BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** The Mayor is hereby authorized to accept the Governor's Office for Local Development State Grant in the amount of \$1,000,000 through the Department of Finance for The Center for Women and Families.

**SECTION II:** This Resolution shall take effect upon its passage and approval.

\_\_\_\_\_  
Kathleen J. Herron  
Metro Council Clerk

\_\_\_\_\_  
Kevin J. Kramer  
President of the Council

\_\_\_\_\_  
Jerry E. Abramson  
Mayor

\_\_\_\_\_  
Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

BY: \_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_, SERIES 2006**

**A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A STATE GRANT FROM THE GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT IN THE AMOUNT OF \$200,000.00 THROUGH THE DEPARTMENT OF FINANCE FOR THE FAMILY PLACE.**

**Sponsored By: Councilwomen Woolridge and Flood**

**WHEREAS**, the application for the Grant has been reviewed and approved by the Governor's Office for Local Development; and

**WHEREAS**, the Metro Government wishes to take advantage of this funding opportunity through the Finance Department.

**BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** The Mayor is hereby authorized to accept the Governor's Office for Local Development State Grant in the amount of \$200,000 through the Department of Finance for The Family Place.

**SECTION II:** This Resolution shall take effect upon its passage and approval.

\_\_\_\_\_  
Kathleen J. Herron  
Metro Council Clerk

\_\_\_\_\_  
Kevin J. Kramer  
President of the Council

\_\_\_\_\_  
Jerry E. Abramson  
Mayor

\_\_\_\_\_  
Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

BY: \_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_, SERIES 2006**

**A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A STATE GRANT FROM THE GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT IN THE AMOUNT OF \$220,000.00 THROUGH THE DEPARTMENT OF FINANCE FOR THE BOYS HAVEN MOMS MENTORING MOMS PROGRAM.**

**Sponsored By: Councilwoman Madonna Flood**

**WHEREAS**, the application for the Grant has been reviewed and approved by the Governor's Office for Local Development; and

**WHEREAS**, the Metro Government wishes to take advantage of this funding opportunity through the Finance Department.

**BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** The Mayor is hereby authorized to accept the Governor's Office for Local Development State Grant in the amount of \$220,000 through the Department of Finance for the Boys Haven Moms Mentoring Moms Program.

**SECTION II:** This Resolution shall take effect upon its passage and approval.

\_\_\_\_\_  
Kathleen J. Herron  
Metro Council Clerk

\_\_\_\_\_  
Kevin J. Kramer  
President of the Council

\_\_\_\_\_  
Jerry E. Abramson  
Mayor

\_\_\_\_\_  
Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

BY: \_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_, SERIES 2006**

**A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A STATE GRANT FROM THE GOVERNOR'S OFFICE FOR LOCAL DEVELOPMENT IN THE AMOUNT OF \$950,000.00 EFFECTIVE JANUARY 1, 2007 THROUGH THE DEPARTMENT OF FINANCE FOR JEWISH HOSPITAL/ST. MARY FOR INFRASTRUCTURE.**

**Sponsored By: Councilwoman Mary Woolridge**

**WHEREAS**, the application for the Grant has been reviewed and approved by the Governor's Office for Local Development; and

**WHEREAS**, the Metro Government wishes to take advantage of this funding opportunity through the Finance Department.

**BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** The Mayor is hereby authorized to accept the Governor's Office for Local Development State Grant in the amount of \$950,000 through the Department of Finance for Jewish Hospital/St. Mary for infrastructure.

**SECTION II:** This Resolution shall take effect upon its passage and approval.

\_\_\_\_\_  
Kathleen J. Herron  
Metro Council Clerk

\_\_\_\_\_  
Kevin J. Kramer  
President of the Council

\_\_\_\_\_  
Jerry E. Abramson  
Mayor

\_\_\_\_\_  
Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

BY: \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_, SERIES 2006**

**AN ORDINANCE RE-ENACTING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) CHAPTER 151, IN ITS ENTIRETY, RELATING TO THE LANDLORD AND TENANT CODE.**

**Sponsored By: President Kevin Kramer**

**BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** Pursuant to the provisions of KRS 67C.115 (2), LMCO Chapter 151, Sections 151.01 – 151.98 are hereby reenacted, in its entirety, as follows:

Sections

***General Provisions***

- 151.01 Title
- 151.02 Purpose and policies
- 151.03 Definitions
- 151.04 Principles of law and equity
- 151.05 Construction
- 151.06 Administration of remedies; enforcement
- 151.07 Settlement of disputed claim or right
- 151.08 Exclusion from application
- 151.09 Jurisdiction; service of process

***Regulation of Rental Agreements***

- 151.20 Good faith obligation
- 151.21 Unconscionability
- 151.22 Notice



- 151.23 Terms and conditions of rental agreement
- 151.24 Prohibited provisions
- 151.25 Separation of rents and obligations
- 151.26 Security deposits
- 151.27 Disclosure
- 151.28 Possession of premises
- 151.29 Landlord's maintenance obligations and agreements
- 151.30 Limitation of liability
- 151.31 Tenant's maintenance obligations
- 151.32 Rules and regulations adopted by landlord
- 151.33 Right of access by landlord
- 151.34 Tenant's use and occupancy
- 151.35 Noncompliance by landlord
- 151.36 Landlord's failure to deliver possession
- 151.37 Remedies for noncompliance affecting health and safety
- 151.38 Wrongful failure to supply essential services
- 151.39 Landlord's noncompliance as defense to action for possession or rent
- 151.40 Fire or casualty damage
- 151.41 Tenant's remedies for unlawful ouster, exclusion or diminution of service
- 151.42 Tenant's noncompliance with rental agreement; failure to pay rent
- 151.43 Tenant's failure to maintain
- 151.44 Remedies for absence, nonuse and abandonment
- 151.45 Waiver of landlord's right to terminate

- 151.46 Landlord's lien or security interest; distress for rent
- 151.47 Remedy after termination
- 151.48 Recovery of possession limited
- 151.49 Periodic tenancy; holdover remedies
- 151.50 Remedies for abuse of access
- 151.51 Retaliatory conduct
- 151.98 Severability

## **GENERAL PROVISIONS**

### **§ 151.01 TITLE.**

This ordinance shall be known and may be cited as the “Uniform Residential Landlord and Tenant Act.”

***Statutory reference:***

*For provisions of the “Uniform Residential Landlord Act,” see KRS 383.500 through § 383.705*

### **§ 151.02 PURPOSE AND POLICIES.**

(A) This ordinance shall be liberally construed and applied to promote its underlying purposes and policies.

(B) Underlying purposes and policies of this ordinance are to:

(1) Encourage landlords and tenants to maintain and improve the quality of housing; and

(2) Make uniform the law with respect to the subject of this ordinance among those states which enact it.

### **§ 151.03 DEFINITIONS.**

For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACTION.** Includes recoupment, counterclaim, set-off suit in equity, and any other proceeding in which rights are determined, including an action for possession.

**BUILDING and HOUSING CODES.** Any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit.

**DWELLING UNIT.** A structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

**GOOD FAITH.** Honesty in fact in the conduct of the transaction concerned.

**LANDLORD.** The owners, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by this ordinance.

**ORGANIZATION.** A corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

**OWNER.** One or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises. The term includes a mortgagee in possession.

**PERSON.** An individual or organization.

**PREMISES.** A dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

**RENT.** All payments except a security deposit as defined in this ordinance to be made to the landlord under the rental agreement.

**RENTAL AGREEMENT.** All agreements, written or oral and valid rules and regulations adopted under § 151.32 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

**ROOMER or BOARDER.** A tenant occupying a dwelling unit:

(1) Which lacks at least one major bathroom facility or kitchen facility, such as a toilet, refrigerator, or a stove, and;

(2) In a building where one or more such major facilities are supplied to be used in common by the occupants of the tenant's dwelling unit and by the occupants of one or more other dwelling units; and

(3) In a building in which the landlord resides.

**SECURITY DEPOSIT.** An escrow payment made to the landlord under the rental agreement for the purpose of securing the landlord against financial loss due to damage to the premises occasioned by the tenant's occupancy other than ordinary wear and tear.

**SINGLE-FAMILY RESIDENCE.** A structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

**TENANT.** A person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

**UNCONSCIONABLE.** An act or conduct which is willful and is so harsh and unjust as would be condemned or considered to be wrongful and would be shocking to the conscience of honest and fair-minded persons.

**WILLFUL.** With deliberate intention, not accidentally or inadvertently and done according to a purpose.

#### **§ 151.04 PRINCIPLES OF LAW AND EQUITY.**

Unless displaced by the provisions of this ordinance, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating cause supplement its provisions.

#### **§ 151.05 CONSTRUCTION.**

This ordinance being a general act intended as a unified coverage of its subject matter, no part of it is to be construed as impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

#### **§ 151.06 ADMINISTRATION OF REMEDIES; ENFORCEMENT.**

(A) The remedies provided by this ordinance shall be so administered that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(B) Any right or obligation declared by this ordinance is enforceable by action unless the provision declaring it specifies a different and limited effect.

#### **§ 151.07 SETTLEMENT OF DISPUTED CLAIM OR RIGHT.**

A claim or right arising under this ordinance or on a rental agreement, if disputed in good faith, may be settled by agreement.

## **§ 151.08 EXCLUSION FROM APPLICATION.**

The following arrangements are not governed by this ordinance:

- (A) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational counseling, religious or similar service.
- (B) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.
- (C) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.
- (D) Transient occupancy in a hotel, or motel, or lodgings subject to state transient lodgings or room occupancy excise tax act.
- (E) Occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises.
- (F) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.
- (G) Occupancy of a dwelling unit located on land devoted to the production of livestock, livestock products, poultry, poultry products or the growing of tobacco or other crops including timber.

## **§ 151.09 JURISDICTION; SERVICE OF PROCESS.**

- (A) The district courts of this state may exercise jurisdiction over any landlord or tenant with respect to any conduct in this state governed by this ordinance or with respect to any claim arising from a transaction subject to this ordinance. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord or tenant may be acquired in a civil action or proceeding instituted in the court by the service of process in the manner provided by this ordinance.
- (B) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by this ordinance, or engages in a transaction subject to this ordinance, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the Secretary of State. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the Secretary of State, but service upon him is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his last reasonably ascertainable address. An affidavit of compliance with this ordinance shall

be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.

## ***REGULATION OF RENTAL AGREEMENTS***

### **§ 151.20 GOOD FAITH OBLIGATION.**

Every duty under this ordinance and every act which must be performed as a condition precedent to the exercise of a right or remedy under this ordinance imposes an obligation of good faith in its performance or enforcement.

### **§ 151.21 UNCONSCIONABILITY.**

(A) If the court, as a matter of law, finds:

(1) A rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(2) A settlement in which a party waives or agrees to forego a claim or right under this ordinance or under a rental agreement was unconscionable when made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

(B) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

### **§ 151.22 NOTICE.**

(A) A person has notice of a fact if:

(1) He has actual knowledge of it;

(2) He has received a notice or notification of it; or

(3) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

(B) A person knows or has knowledge of a fact if he has actual knowledge of it.

(C) A person notifies or gives a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person receives a notice or notification when:

(1) It comes to his attention; or

(2) In the case of the landlord, it is delivered in writing at the place of business of the landlord through which the rental agreement was made or at any place held out by him as the place for receipt of the communications, or mailed by certified mail to him at his place of business or at any place held out by him as the place for receipt of any communication.

(3) In the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to him at the place held out by him as the place for receipt of the communication, or in the absence of such designation, to his last known place of residence.

(D) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to his attention if the organization had exercised reasonable diligence.

#### **§ 151.23 TERMS AND CONDITIONS OF RENTAL AGREEMENT.**

(A) A landlord and a tenant may include in rental agreement terms and conditions not prohibited by this ordinance or other rule of law, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

(B) Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent is uniformly apportionable from day-to-day.

(C) Unless the rental agreement fixes a definite term, the tenancy is week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

#### **§ 151.24 PROHIBITED PROVISIONS.**

(A) A rental agreement may not provide that the tenant:

(1) Agrees to waive or forego rights or remedies under this ordinance;

(2) Authorizes any person to confess judgment on a claim arising out of the rental agreement;

(3) Agrees to pay the landlord's attorney's fees; or

(4) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith.

(B) A provision prohibited by subsection (A) of this section in a rental agreement is unenforceable.

#### **§ 151.25 SEPARATION OF RENTS AND OBLIGATIONS.**

A rental agreement, assignment, conveyance, trust deed or security instrument may not permit the receipt of rent free of the obligation to comply with § 151.29(A) of this ordinance.

#### **§ 151.26 SECURITY DEPOSITS.**

(A) All landlords of residential property requiring security deposits prior to occupancy shall be required to deposit all tenants' security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the Commonwealth of Kentucky or any agency of the U.S. Government. Prospective tenants shall be informed of the location of the separate account and the account number.

(B) Prior to tendering any consideration deemed to be a security deposit, the prospective tenant shall be presented with a comprehensive listing of any then-existing damage to the unit which would be the basis for a charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall have the right to inspect the premises to ascertain the accuracy of such listing prior to taking occupancy. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing, but shall not be construed to be conclusive to latent defect. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(C) At the termination of occupancy, the landlord shall inspect the premises and compile a comprehensive listing of any damage to the unit which is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall then have the right to inspect the premises to ascertain the accuracy of such listing. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(D) No landlord shall be entitled to retain any portion of a security deposit if the security deposit was not deposited in a separate account as required by subsection (A) of this section and if the initial and final damage listings required by subsection (B) and (C) of this section are not provided.

(E) A tenant who disputes the accuracy of the final damage listing given pursuant to subsection (C) of this section may bring an action in district court. Tenant's claim shall be limited to those items from which the tenant specifically dissented in accordance with the provisions of subsection (C) of this section, or except as otherwise provided, and if



the tenant shall fail to sign the listing or specifically dissent in accordance with subsection (C) of this section, the tenant shall not be entitled to recover any damages under this ordinance.

(F) In the event a tenant leaves not paying his last month's rent and does not demand a return of his deposit, the landlord may, after 30 days, remove the deposit from the account and apply any such excess to the debt owing.

(G) In the event the tenant leaves not owing rent and having any refund due, the landlord shall send notification to the last known or reasonably determinable address, of the amount of any refund due the tenant. In the event the landlord shall not have received a response from the tenant within 60 days from the sending of such notification, the landlord may remove the deposit from the account and retain it free from any claim of the tenant or any person claiming in his behalf.

#### **§ 151.27 DISCLOSURE.**

(A) A landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

(1) The person authorized to manage the premises; and

(2) An owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for notices and demands.

(B) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner or manager.

(C) A person who fails to comply with subsection (A) of this section becomes an agent of each person who is a landlord for:

(1) Service of process and receiving and receipting for notices and demands; and

(2) Performing the obligations of the landlord under this ordinance and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

#### **§ 151.28 POSSESSION OF PREMISES.**

At the commencement of the term a landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and § 151.29. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in § 151.49(D) of this ordinance.

## **§ 151.29 LANDLORD'S MAINTENANCE OBLIGATIONS AND AGREEMENTS.**

(A) A landlord shall:

(1) Comply with the requirements of applicable building and housing codes materially affecting health and safety;

(2) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(3) Keep all common areas of the premises in a clean and safe condition;

(4) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required to be supplied by him; and

(5) Supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1 except where the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

(B) If the duty imposed by subsection (A)(1) of this section is greater than any duty imposed by any other paragraph of this ordinance, the landlord's duty shall be determined by reference to subsection (A)(1) of this section.

(C) The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in subsection (A)(5) of this section and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(D) The landlord and tenant of any dwelling unit other than a single-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations or remodeling only if:

(1) The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(2) The work is not necessary to cure non-compliance with subsection (A)(1) of this section; and

(3) The agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

## **§ 151.30 LIMITATION OF LIABILITY.**

(A) Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this ordinance as to events occurring after written notice to the tenant of the conveyance.

(B) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this ordinance as to events occurring after written notice to the tenant of the termination of his management.

#### **§ 151.31 TENANT'S MAINTENANCE OBLIGATIONS.**

A tenant shall:

(A) Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(B) Keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

(C) Dispose from his dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;

(D) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(E) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances including elevators in the premises;

(F) Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and

(G) Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises.

#### **§ 151.32 RULES AND REGULATIONS ADOPTED BY LANDLORD.**

(A) A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if:

(1) Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(2) It is reasonably related to the purpose for which it is adopted;

- (3) It applies to all tenants in the premises in a fair manner;
- (4) It is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;
- (5) It is not for the purpose of evading the obligations of the landlord; and
- (6) The tenant has notice of it at the time he enters into the rental agreement, or when it is adopted.

(B) If a rule or regulation is adopted after the tenant enters into the rental agreement that works a substantial modification of his bargain it is not valid unless the tenant consents to it in writing.

### **§ 151.33 RIGHT OF ACCESS BY LANDLORD.**

(A) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors.

(B) A landlord may enter the dwelling unit without consent of the tenant in case of emergency.

(C) A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his intent to enter and may enter only at reasonable times.

(D) A landlord has no other right of access except:

- (1) Pursuant to court order;
- (2) As permitted by §§ 151.43 and 151.44(B) of this ordinance; or
- (3) Unless the tenant has abandoned or surrendered the premises.

### **§ 151.34 TENANT'S USE AND OCCUPANCY.**

Unless otherwise agreed, a tenant shall occupy his dwelling unit only as a dwelling unit. The rental agreement may require that the tenant notify the landlord of any anticipated extended absence from the premises in excess of seven days no later than the first day of the extended absence.

### **§ 151.35 NONCOMPLIANCE BY LANDLORD.**

(A) Except as provided in this ordinance, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with § 151.29 materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not remedied in 14 days, and the rental agreement shall terminate as provided in the notice subject to the following:

(1) If the breach is remediable by repairs, the payment of damages or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate by reason of the breach.

(2) If substantially the same act or omission which constituted a prior noncompliance covered by subsection (A) of this section of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least 14 days written notice specifying the breach and the date of termination of the rental agreement.

(3) The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

(B) Except as provided in this ordinance, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or § 151.29.

(C) The remedy provided in subsection (B) of this section is in addition to any right of the tenant arising under subsection (A) of this section.

(D) If the rental agreement is terminated, the landlord shall return all prepaid rent.

#### **§ 151.36 LANDLORD'S FAILURE TO DELIVER POSSESSION.**

(A) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in § 151.28, rent abates until possession is delivered and the tenant may:

(1) Terminate the rental agreement upon at least five days' written notice to the landlord and upon termination the landlord shall return all prepaid rent and damage fee; or

(2) Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by him.

(B) If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than three months'

periodic rent or threefold the actual damages sustained, whichever is greater, and reasonable attorney's fees.

#### **§ 151.37 REMEDIES FOR NONCOMPLIANCE AFFECTING HEALTH AND SAFETY.**

(A) If the landlord willfully and materially fails to comply with the rental agreement or fails to comply with § 151.29 and such noncompliance materially affects health and safety and the reasonable cost of compliance is less than \$100, or an amount equal to one-half of the monthly rent, whichever amount is greater, the tenant may notify the landlord of his intention to correct the condition at the landlord's expense. If the landlord willfully fails to comply within 14 days after being notified by the tenant in writing or as promptly as conditions require in case of emergency, the tenant may cause the work to be done in a workmanlike manner and after submitting to the landlord an itemized statement for the work actually done and for which the tenant has paid in full, deduct from his rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this section.

(B) A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

#### **§ 151.38 WRONGFUL FAILURE TO SUPPLY ESSENTIAL SERVICES.**

(A) If, contrary to the rental agreement or § 151.29, the landlord willfully fails to supply heat, running water, hot water, electric, gas or other essential service, the tenant may give written notice to the landlord specifying the breach and, may:

(1) Procure reasonable amounts of heat, hot water, running water, electric, gas, and the essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(2) Recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(3) Procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(B) In addition to a remedy provided in subsection (A)(3) of this section the tenant may recover reasonable attorney's fees.

(C) If the tenant proceeds under this section, he may not proceed under §§ 151.35 or 151.37 as to that breach.

(D) Rights of the tenant under this ordinance do not arise until he has given notice to the landlord or if the condition was caused by the deliberate or negligent act or

omission of the tenant, a member of his family, or other person on the premises with his consent.

#### **§ 151.39 LANDLORD'S NONCOMPLIANCE AS DEFENSE TO ACTION FOR POSSESSION OR RENT.**

(A) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount he may recover under the rental agreement of § 151.23. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith, the landlord may recover reasonable attorney's fees.

(B) In an action for rent when the tenant is not in possession, he may counterclaim as provided in subsection (A) of this section but is not required to pay any rent into court.

#### **§ 151.40 FIRE OR CASUALTY DAMAGE.**

(A) If the dwelling unit or premises are damaged or destroyed by fire or casualty or so injured by the elements, act of God or other cause to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant or the landlord may terminate the rental agreement upon 14 days' notice; however, the tenant may immediately vacate the premises.

(B) If the rental agreement is terminated under provision of this ordinance the landlord shall return all the unused portion of the prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the casualty.

#### **§ 151.41 TENANT'S REMEDIES FOR UNLAWFUL OUSTER, EXCLUSION OR DIMINUTION OF SERVICE.**

If a landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas or other essential service, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than three months periodic rent and a reasonable attorney's fee. If the rental agreement is terminated, the landlord shall return all prepaid rent.

#### **§ 151.42 TENANT'S NONCOMPLIANCE WITH RENTAL AGREEMENT; FAILURE TO PAY RENT.**

(A) Except as provided in this ordinance, if there is a material noncompliance by the tenant with the rental agreement or a material noncompliance with §§ 151.31 or

151.32, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 14 days after receipt of the notice. If the breach is not remedied in 15 days, the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least 14 days' written notice specifying the breach and the date of termination of the rental agreement.

(B) If rent is unpaid when due and the tenant fails to pay rent within seven days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(C) Except as provided in this ordinance, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or §§ 151.31 or 151.32. If the tenant's noncompliance is willful the landlord may recover actual damages and reasonable attorney's fees.

#### **§ 151.43 TENANT'S FAILURE TO MAINTAIN.**

If there is noncompliance by the tenant with §§ 151.31 or 151.32 materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within 14 days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit the itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date periodic rent is due, or if the rental agreement has terminated, for immediate payment.

#### **§ 151.44 REMEDIES FOR ABSENCE, NONUSE AND ABANDONMENT.**

(A) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days as required in § 151.34 and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

(B) During any absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times reasonably necessary.

(C) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, it terminates as of the date of the new tenancy. If the landlord fails to use reasonable efforts to rent the dwelling unit at a fair



rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

#### **§ 151.45 WAIVER OF LANDLORD'S RIGHT TO TERMINATE.**

Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by him that varies from the terms of the rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

#### **§ 151.46 LANDLORD'S LIEN OR SECURITY INTEREST; DISTRESS FOR RENT.**

(A) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before August 1, 1984.

(B) Distraint for rent is abolished.

#### **§ 151.47 REMEDY AFTER TERMINATION.**

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in § 151.42(C).

#### **§ 151.48 RECOVERY OF POSSESSION LIMITED.**

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, electric, running water, hot water, gas, or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in this ordinance.

#### **§ 151.49 PERIODIC TENANCY; HOLDOVER REMEDIES.**

(A) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least seven days before the termination date specified in the notice.

(B) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least 30 days before the periodic rental date specified in the notice.

(C) The landlord or the tenant may terminate a tenancy begun upon the termination of a written lease by written notice given to the other at least ten days before the termination date specified in the notice, except that if the tenant fails to pay rent

within ten days after the day it becomes due, the landlord may terminate the tenancy at any time without notice.

(D) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover an amount not more than three months' periodic rent or threefold the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, § 151.23(C) applies.

#### **§ 151.50 REMEDIES FOR ABUSE OF ACCESS.**

(A) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or terminate the rental agreement. In either case the landlord may recover actual damages and reasonable attorney's fees.

(B) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the reoccurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages and reasonable attorney's fees.

#### **§ 151.51 RETALIATORY CONDUCT.**

(A) Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

(1) The tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety:

(2) The tenant has complained to the landlord of a violation under § 151.29;

(3) The tenant has organized or become a member of a tenant's union or similar organization.

(B) If the landlord acts in violation of subsection (A) of this section, the tenant is entitled to the remedies provided in § 151.41 and has a defense in any retaliatory action against him for possession. In an action by or against the tenant, evidence of a complaint within one year before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. **PRESUMPTION** means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(C) Notwithstanding subsection (A) and (B) of this section, a landlord may bring an action for possession if:

(1) The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in his household or upon the premises with his consent;

(2) The tenant is in default in rent; or

(3) Compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(D) The maintenance of an action under subsection (C) of this section does not release the landlord from liability under § 151.35(B).

**§ 151.98 SEVERABILITY.**

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

**SECTION II:** This Ordinance shall take effect upon its passage and approval.

---

Kathleen J. Herron  
Metro Council Clerk

---

Kevin J. Kramer  
President of the Council

---

Jerry E. Abramson  
Mayor

---

Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

BY: \_\_\_\_\_